

Senate Bill No. 547

CHAPTER 159

An act to add and repeal Section 22651.10 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 2, 2005. Filed with
Secretary of State September 2, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 547, Cox. Vehicles: driving under the influence: vehicle impoundment.

Existing law authorizes a court to order the impoundment of a person's vehicle when the person has been convicted of violating certain provisions prohibiting driving a vehicle while under the influence of alcohol or any drug, or a combination of those.

Existing law authorizes the removal of a vehicle in accordance with a specified procedure when a peace officer undertakes the arrest of a person who was driving or in control of a vehicle, for an alleged public offense and the officer is required or authorized to take the person into custody, and does take the person into custody.

This bill would establish a pilot program in Sacramento County that would authorize, until January 1, 2009, the impoundment of a person's vehicle by a peace officer for a DUI offense that is undertaken in combination with an intervention and a referral of the person to a driving-under-the-influence program, as specified, if the person has one or more prior DUI convictions within the past 10 years. The bill would implement the program only to the extent that funds from private or federal sources are available to fund the program and only if the Board of Supervisors of Sacramento County enacts an ordinance or resolution authorizing the implementation of the pilot program in the county. The bill would require the county to report to the Legislature regarding the effectiveness of the pilot program, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 22651.10 is added to the Vehicle Code, to read:

22651.10. (a) (1) Notwithstanding any other provision of law, when a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, arrests a person for an alleged violation of Section 23152 or 23153, and the person has one or more prior convictions within the past 10 years for a violation of Section 23103, as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 of, or of paragraph (3) of subdivision (c) of Section 192 of,

the Penal Code, the peace officer may cause the removal and seizure of the motor vehicle driven by that person in the commission of that offense in accordance with this chapter.

(2) A motor vehicle seized under paragraph (1) may be impounded for not more than 30 days.

(3) The seizure and impoundment of a motor vehicle under paragraphs (1) and (2) shall be undertaken only if the county participates in a program that combines that seizure and impoundment with an intervention and a referral to a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code immediately upon the arrest or arraignment of the person described in paragraph (1) or upon the delivery of that person to a medical facility for treatment of any injuries.

(b) (1) The intervention shall be performed by a certified alcohol and drug addiction counselor.

(2) The county participating in the program established under this section shall pay for the cost of the intervention, and no part of that cost shall be passed on to the defendant.

(c) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(d) (1) Notwithstanding this chapter or any other provision of law, an impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the motor vehicle is a stolen motor vehicle.

(B) If the driver was not the sole registered owner of the vehicle and the impoundment of the vehicle would cause a hardship on the other registered owner or his or her family.

(C) If the person alleged to have violated Section 23152 or 23153 was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense.

(D) If the registered owner of the motor vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation of Section 23152 or 23153, or was unaware that the driver was using the vehicle to engage in the unlawful activity described in Section 23152 or 23153.

(E) If the legal owner or registered owner of the motor vehicle is a rental car agency.

(F) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A motor vehicle shall be released pursuant to this subdivision only if the registered owner or his or her agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (F) of paragraph (1) a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of Section 23152 or 23153 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(e) A motor vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 30th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(f) (1) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person is convicted of a violation of Section 23152 or 23153 and was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for towing and storage charges related to the impoundment, and administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner is not liable for towing and storage charges related to the impoundment if acquittal or dismissal occurs. A county implementing an impoundment program under this section shall establish a process for the immediate return of all payments made by the defendant relating to the impoundment upon the acquittal of the defendant or dismissal of the case.

(5) The vehicle may not be sold prior to the defendant's conviction.

(6) (A) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (d).

(B) Notwithstanding subparagraph (A), nothing shall prohibit an impounding agency from making prior payment arrangements to satisfy the requirement described in subparagraph (A).

(g) On or before January 1, 2009, the county shall report to the Legislature regarding the effectiveness of the pilot program authorized under this section in reducing the number of first-time violations and repeat offenses of Section 23152 or 23153 in the county.

(h) This section applies only to the County of Sacramento and only if the Board of Supervisors of Sacramento County enacts an ordinance or resolution authorizing the implementation of the pilot program in the county.

(i) This section shall be implemented only to the extent that funds from private or federal sources are available to fund the program.

(j) This section shall remain operative only until January 1, 2009.

(k) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.